

AMENDED IN SENATE AUGUST 5, 2014

AMENDED IN SENATE JULY 2, 2014

AMENDED IN ASSEMBLY MAY 15, 2014

AMENDED IN ASSEMBLY APRIL 30, 2014

AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 1999**

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**Introduced by Assembly Member Atkins**

February 20, 2014

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An act to amend Section 23036 of, and to add and repeal Sections 38.9, ~~17053.86, and 23686~~ 38.10, 17053.91, and 23686.1 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1999, as amended, Atkins. Personal income and corporation taxes: credits: rehabilitation.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2015, and before January 1, 2023, in an amount, determined ~~pursuant to~~ *in modified conformity with* a specified section of the Internal Revenue Code, ~~that is paid or incurred during the taxable year~~ for rehabilitation of certified historic structures. This bill would provide for a 20% credit, or 25% credit, *of qualified rehabilitation expenditures* if the structure meets specified criteria, for

rehabilitation of a certified historic structure within the state to be allocated by the Governor's Office of Business and Economic Development ~~in an~~, *which shall consult with the Office of Historic Preservation, as provided. The aggregate amount of credit would be \$80,000,000 per calendar year, as specified. This bill would require the Legislative Analyst to, on an annual basis, collaborate with the Governor's Office of Business and Economic Development to review the tax credit, as provided.*

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The Legislature finds and declares that
- 2 California's historic buildings are an important asset to
- 3 communities throughout the state, and that the preservation and
- 4 restoration of these buildings is important to enhancing civic pride,
- 5 increasing tourism, and maintaining vibrant neighborhoods.
- 6 (b) The Legislature further finds and declares all of the
- 7 following:
- 8 (1) The federal Historic Preservation Tax Incentives program,
- 9 currently available to California's income producing historic
- 10 properties, has generated nearly \$1.5 billion in investment during
- 11 the last 10 years.
- 12 (2) While 35 states have similar state tax credits or incentives
- 13 for historic preservation, no such incentive exists in California.
- 14 (3) States that have partnered a state incentive with the federal
- 15 Historic Preservation Tax Incentive have reaped significant
- 16 economic development benefits, including construction and
- 17 building industry job creation, increased state tax revenues through
- 18 increased employment and wages, increased local property tax
- 19 revenues through increased property values, and increased local
- 20 tax revenues through sales taxes and heritage tourism.
- 21 (4) Over the last 10 years, California has had 129 projects
- 22 qualify for the federal Historic Preservation Tax Incentives
- 23 program. These projects have been located in 20 different counties.
- 24 (5) As California communities continue to adjust and adapt to
- 25 the dissolution of redevelopment agencies, proven tools are still

1 needed to incentivize economic development and revitalize  
2 economically distressed areas.

3 SEC. 2. Section ~~38.9~~ *38.10* is added to the Revenue and  
4 Taxation Code, to read:

5 ~~38.9:~~

6 *38.10.* (a) The Legislative Analyst shall, on an annual basis  
7 beginning January 1, 2016, collaborate with the Governor's Office  
8 of Business and Economic Development to review the effectiveness  
9 of the tax credits allowed by Sections 17053.86 and 23686. The  
10 review shall include, but is not limited to, an analysis of the demand  
11 for the tax credit, the types and uses of projects receiving the tax  
12 credit, the jobs created by the use of the tax credits, and the  
13 economic impact of the tax credits.

14 (b) This section shall remain in effect only until January 1, 2024,  
15 and as of that date is repealed, unless a later enacted statute, that  
16 is enacted before January 1, 2024, deletes or extends that date.

17 SEC. 3. Section ~~17053.86~~ *17053.91* is added to the Revenue  
18 and Taxation Code, to read:

19 ~~17053.86:~~

20 *17053.91.* For each taxable year beginning on or after January  
21 1, 2015, and before January 1, 2023, there shall be allowed as a  
22 credit against the "net tax," as defined in Section 17039, an amount  
23 determined in accordance with Section 47 of the Internal Revenue  
24 Code, except as follows:

25 (a) (1) In lieu of the percentages specified in Section 47(a) of  
26 the Internal Revenue Code, except as provided in paragraph (2),  
27 the applicable percentage shall be 20 percent of the qualified  
28 rehabilitation expenditures with respect to a certified historic  
29 structure.

30 (2) The applicable percentage shall be 25 percent of the qualified  
31 rehabilitation expenditures with respect to a certified historic  
32 structure if that certified historic structure meets one of the  
33 following criteria:

34 (A) The rehabilitated structure is located on federal surplus  
35 property, if obtained by a local agency under Section 54142 of the  
36 Government Code, on surplus state real property, as defined by  
37 Section 11011.1 of the Government Code, or on surplus land, as  
38 defined by subdivision (b) of Section 54221 of the Government  
39 Code.

1 (B) The rehabilitated structure includes affordable housing for  
2 lower-income households, as defined by Section 50079.5 of the  
3 Health and Safety Code.

4 (C) The structure is located in a designated census tract, as  
5 defined in paragraph (7) of subdivision (b) of Section 17053.73.

6 (D) The structure is a part of a military base reuse authority  
7 established pursuant to Title 7.86 (commencing with Section  
8 67800) of the Government Code.

9 (E) The structure is a transit-oriented development that is a  
10 higher-density, mixed-use development within a walking distance  
11 of one-half mile of a transit station.

12 (3) *The credit shall be allowed for qualified rehabilitation*  
13 *expenditures for an owner-occupied residence determined by the*  
14 *Governor's Office of Business and Economic Development and*  
15 *the Office of Historic Preservation to have a public benefit in the*  
16 *year of completion in the amounts specified in paragraphs (1) and*  
17 *(2), as applicable, for those amounts that are equal to or more*  
18 *than five thousand dollars (\$5,000) but do not exceed twenty-five*  
19 *thousand dollars (\$25,000).*

20 (b) For purposes of this section, ~~a certified~~ *the following*  
21 *definitions shall apply:*

22 (1) ~~"Certified historic structure structure"~~ *has the same meaning*  
23 *as defined in Section 47(c)(3), of the Internal Revenue Code, and*  
24 *additionally means a structure in this state that appears on either*  
25 ~~the National Register of Historic Places or is listed below the~~  
26 *California Register of Historical Resources.*

27 (2) *"Owner-occupied residence" means a building that will be*  
28 *owned and occupied by an individual tax payer, who has a*  
29 *household income of two hundred thousand dollars (\$200,000) or*  
30 *less, as the taxpayer's principal residence.*

31 (3) (A) *"Qualified rehabilitation expenditure" has the same*  
32 *meaning as that term is defined in Section 47(c) of the Internal*  
33 *Revenue Code, except that qualified rehabilitation expenditures*  
34 *may include expenditures in connection with the rehabilitation of*  
35 *a building without regard to whether any portion of the building*  
36 *is or is reasonably expected to be tax exempt use property.*

37 (B) *"Qualified rehabilitation expenditure" also means*  
38 *rehabilitation expenditures incurred by the taxpayer with respect*  
39 *to an owner-occupied principal residence for the rehabilitation of*  
40 *the exterior of the building or rehabilitation necessary for the*

1 *functioning of the home, including, but not limited to, rehabilitation*  
2 *of the electrical, plumbing, or foundation of the principal residence.*

3 (c) A deduction shall not be allowed under this part for any  
4 expense for which a credit is allowed by this section.

5 (d) If a credit is allowed under this section with respect to any  
6 property, the basis of that property shall be reduced by the amount  
7 of the credit allowed.

8 (e) In the case where the credit allowed by this section exceeds  
9 the “net tax,” the excess may be carried over to reduce the “net  
10 tax” in the following year, and the seven succeeding years if  
11 necessary, until the credit is exhausted.

12 (f) For purposes of this section, the Governor’s Office of  
13 Business and Economic Development shall do the following:

14 (1) ~~(A)~~ On and after January 1, 2015, and before January 1,  
15 2023, allocate tax credits to applicants.

16 ~~(B) (i) The credit shall be allocated to the partners of a~~  
17 ~~partnership owning the project in accordance with the partnership~~  
18 ~~agreement, regardless of how the federal historic rehabilitation tax~~  
19 ~~credit with respect to the project is allocated to the partners, or~~  
20 ~~whether the allocation of the credit under the terms of the~~  
21 ~~agreement has substantial economic effect, within the meaning of~~  
22 ~~Section 704(b) of the Internal Revenue Code.~~

23 ~~(ii) To the extent the allocation of the credit to a partner under~~  
24 ~~this section lacks substantial economic effect, any loss or deduction~~  
25 ~~otherwise allowable under this part that is attributable to the sale~~  
26 ~~or other disposition of that partner’s partnership interest made prior~~  
27 ~~to the expiration of the federal credit shall not be allowed in the~~  
28 ~~taxable year in which the sale or other disposition occurs, but shall~~  
29 ~~instead be deferred until, and treated as if, it occurred in the first~~  
30 ~~taxable year immediately following the taxable year in which the~~  
31 ~~federal credit period expires for the project described in clause (i).~~

32 (2) Establish a procedure for applicants to file with the  
33 Governor’s Office of Business and Economic Development a  
34 written application, on a form jointly prescribed by that office and  
35 the Office of Historic Preservation for the allocation of the tax  
36 credit.

37 (3) Establish criteria consistent with the requirements of this  
38 section, for allocating tax credits. Criteria shall include, but are  
39 not limited to, the following:

1 (A) The number of jobs created by the rehabilitation project,  
2 both during and after the rehabilitation of the structure.

3 (B) The expected increase in state and local tax revenues derived  
4 from the rehabilitation project, including those from increased  
5 wages and property taxes.

6 (C) Any additional incentives or contributions included in the  
7 rehabilitation project from federal, state, or local governments.

8 *(D) For the qualified rehabilitation expenditures with respect*  
9 *to an owner-occupied principal residence, the rehabilitation has*  
10 *a public benefit, as determined jointly with the Office of Historic*  
11 *Preservation.*

12 (4) Determine and designate, in consultation with the Office of  
13 Historic Preservation, applicants that meet the requirements of this  
14 section to ensure that the rehabilitation project upholds historical  
15 values in terms of architectural and aesthetic standards.

16 (5) Process and approve, or reject, all applications.

17 (6) Subject to the annual cap established as provided in  
18 subdivision (g), allocate an aggregate amount of credits under this  
19 section and Section ~~23686~~, 23686.1, and allocate any carryover  
20 of unallocated credits from prior years.

21 (7) Certify tax credits allocated to taxpayers.

22 (8) Provide the Franchise Tax Board an annual list of the  
23 taxpayers that were allocated a credit pursuant to this section and  
24 Section 23686, including each taxpayer's taxpayer identification  
25 number, and the amount allocated to each taxpayer.

26 (g) The aggregate amount of credits that may be allocated in  
27 any calendar year pursuant to this section and Section 23686 shall  
28 be an amount equal to the sum of all of the following:

29 (1) Eighty million dollars (\$80,000,000) in tax credits for the  
30 2015 calendar year and each calendar year thereafter, through and  
31 including the 2022 calendar year.

32 (2) The unused allocation tax credit amount, if any, for the  
33 preceding calendar year.

34 *(h) In the case of any application for tax credits by an entity*  
35 *treated as a partnership or "S" corporation for income tax*  
36 *purposes:*

37 *(1) (A) Credits awarded to a partnership shall be allocated to*  
38 *the partners of that partnership in accordance with the partnership*  
39 *agreement, regardless of how the federal historic rehabilitation*  
40 *tax credit with respect to the project is allocated to the partners,*

1 *or whether the allocation of the credit under the terms of the*  
2 *partnership agreement has substantial economic effect, within the*  
3 *meaning of Section 704(b) of the Internal Revenue Code.*

4 *(B) To the extent the allocation of the credit to a partner under*  
5 *this section lacks substantial economic effect, any loss or deduction*  
6 *otherwise allowable under this part that is attributable to the sale*  
7 *or other disposition of that partner's partnership interest made*  
8 *prior to the expiration of the tax credit recapture period for the*  
9 *project described in subparagraph (A) shall not be allowed in the*  
10 *taxable year in which the sale or other disposition occurs, but*  
11 *shall instead be deferred until, and treated as if, it occurred in the*  
12 *first taxable year immediately following the taxable year in which*  
13 *the tax credit recapture period expires for the project described*  
14 *in subparagraph (A). The credits awarded to a partnership shall*  
15 *be allocated to the partners of that partnership in accordance with*  
16 *the partnership agreement.*

17 *(2) Credits awarded to an "S" corporation shall be allocated*  
18 *among the shareholders of that "S" corporation pro rata in*  
19 *accordance with their respective pro rata shares, determined in*  
20 *accordance with Subchapter S of Chapter 1 of the Internal Revenue*  
21 *Code and the regulations promulgated thereunder.*

22 *(i) Section 183 of the Internal Revenue Code shall not apply*  
23 *with respect to the credit allowed by this section.*

24 *(j) For purposes of this section, the provisions of subsection (a)*  
25 *of Section 50 of the Internal Revenue Code shall apply.*

26 *(k) The Governor's Office of Business and Economic*  
27 *Development may adopt a reasonable fee in an amount sufficient*  
28 *to cover the expenses incurred by the Governor's Office of Business*  
29 *and Economic Development and the Office of Historic Preservation*  
30 *in fulfilling the responsibilities described in paragraphs (4) and*  
31 *(5) of subdivision (f) and paragraphs (4) and (5) of subdivision (f)*  
32 *of Section 23686.*

33 ~~*(h)*~~

34 *(l) This section shall remain in effect only until December 1,*  
35 *2023, and as of that date is repealed.*

36 *SEC. 4. Section 23036 of the Revenue and Taxation Code is*  
37 *amended to read:*

38 *23036. (a) (1) The term "tax" includes any of the following:*

39 *(A) The tax imposed under Chapter 2 (commencing with Section*  
40 *23101).*

1 (B) The tax imposed under Chapter 3 (commencing with Section  
2 23501).

3 (C) The tax on unrelated business taxable income, imposed  
4 under Section 23731.

5 (D) The tax on—S “S” corporations imposed under Section  
6 23802.

7 (2) The term “tax” does not include any amount imposed under  
8 paragraph (1) of subdivision (e) of Section 24667 or paragraph (2)  
9 of subdivision (f) of Section 24667.

10 (b) For purposes of Article 5 (commencing with Section 18661)  
11 of Chapter 2, Article 3 (commencing with Section 19031) of  
12 Chapter 4, Article 6 (commencing with Section 19101) of Chapter  
13 4, and Chapter 7 (commencing with Section 19501) of Part 10.2,  
14 and for purposes of Sections 18601, 19001, and 19005, the term  
15 “tax” also includes all of the following:

16 (1) The tax on limited partnerships, imposed under Section  
17 17935, the tax on limited liability companies, imposed under  
18 Section 17941, and the tax on registered limited liability  
19 partnerships and foreign limited liability partnerships imposed  
20 under Section 17948.

21 (2) The alternative minimum tax imposed under Chapter 2.5  
22 (commencing with Section 23400).

23 (3) The tax on built-in gains of—S “S” corporations, imposed  
24 under Section 23809.

25 (4) The tax on excess passive investment income of—S “S”  
26 corporations, imposed under Section 23811.

27 (c) Notwithstanding any other provision of this part, credits are  
28 allowed against the “tax” in the following order:

29 (1) Credits that do not contain carryover provisions.

30 (2) Credits that, when the credit exceeds the “tax,” allow the  
31 excess to be carried over to offset the “tax” in succeeding taxable  
32 years, except for those credits that are allowed to reduce the “tax”  
33 below the tentative minimum tax, as defined by Section 23455.  
34 The order of credits within this paragraph shall be determined by  
35 the Franchise Tax Board.

36 (3) The minimum tax credit allowed by Section 23453.

37 (4) Credits that are allowed to reduce the “tax” below the  
38 tentative minimum tax, as defined by Section 23455.

39 (5) Credits for taxes withheld under Section 18662.

1 (d) Notwithstanding any other provision of this part, each of  
2 the following applies:

3 (1) A credit may not reduce the “tax” below the tentative  
4 minimum tax (as defined by paragraph (1) of subdivision (a) of  
5 Section 23455), except the following credits:

6 (A) The credit allowed by former Section 23601 (relating to  
7 solar energy).

8 (B) The credit allowed by former Section 23601.4 (relating to  
9 solar energy).

10 (C) The credit allowed by former Section 23601.5 (relating to  
11 solar energy).

12 (D) The credit allowed by Section 23609 (relating to research  
13 expenditures).

14 (E) The credit allowed by former Section 23609.5 (relating to  
15 clinical testing expenses).

16 (F) The credit allowed by Section 23610.5 (relating to  
17 low-income housing).

18 (G) The credit allowed by former Section 23612 (relating to  
19 sales and use tax credit).

20 (H) The credit allowed by Section 23612.2 (relating to enterprise  
21 zone sales or use tax credit).

22 (I) The credit allowed by former Section 23612.6 (relating to  
23 Los Angeles Revitalization Zone sales tax credit).

24 (J) The credit allowed by former Section 23622 (relating to  
25 enterprise zone hiring credit).

26 (K) The credit allowed by Section 23622.7 (relating to enterprise  
27 zone hiring credit).

28 (L) The credit allowed by former Section 23623 (relating to  
29 program area hiring credit).

30 (M) The credit allowed by former Section 23623.5 (relating to  
31 Los Angeles Revitalization Zone hiring credit).

32 (N) The credit allowed by former Section 23625 (relating to  
33 Los Angeles Revitalization Zone hiring credit).

34 (O) The credit allowed by Section 23633 (relating to targeted  
35 tax area sales or use tax credit).

36 (P) The credit allowed by Section 23634 (relating to targeted  
37 tax area hiring credit).

38 (Q) The credit allowed by former Section 23649 (relating to  
39 qualified property).

1 (R) For taxable years beginning on or after January 1, 2011, the  
2 credit allowed by Section 23685 (relating to qualified motion  
3 pictures).

4 (S) *The credit allowed by Section 23686.1 (relating to credits*  
5 *for rehabilitation of certified historic structures).*

6 (2) A credit against the tax may not reduce the minimum  
7 franchise tax imposed under Chapter 2 (commencing with Section  
8 23101).

9 (e) Any credit which is partially or totally denied under  
10 subdivision (d) is allowed to be carried over to reduce the “tax”  
11 in the following year, and succeeding years if necessary, if the  
12 provisions relating to that credit include a provision to allow a  
13 carryover of the unused portion of that credit.

14 (f) Unless otherwise provided, any remaining carryover from a  
15 credit that has been repealed or made inoperative is allowed to be  
16 carried over under the provisions of that section as it read  
17 immediately prior to being repealed or becoming inoperative.

18 (g) Unless otherwise provided, if two or more taxpayers share  
19 in costs that would be eligible for a tax credit allowed under this  
20 part, each taxpayer is eligible to receive the tax credit in proportion  
21 to his or her respective share of the costs paid or incurred.

22 (h) Unless otherwise provided, in the case of an—S “S”  
23 corporation, any credit allowed by this part is computed at the—S  
24 “S” corporation level, and any limitation on the expenses  
25 qualifying for the credit or limitation upon the amount of the credit  
26 applies to the—S “S” corporation and to each shareholder.

27 (i) (1) With respect to any taxpayer that directly or indirectly  
28 owns an interest in a business entity that is disregarded for tax  
29 purposes pursuant to Section 23038 and any regulations thereunder,  
30 the amount of any credit or credit carryforward allowable for any  
31 taxable year attributable to the disregarded business entity is limited  
32 in accordance with paragraphs (2) and (3).

33 (2) The amount of any credit otherwise allowed under this part,  
34 including any credit carryover from prior years, that may be applied  
35 to reduce the taxpayer’s “tax,” as defined in subdivision (a), for  
36 the taxable year is limited to an amount equal to the excess of the  
37 taxpayer’s regular tax (as defined in Section 23455), determined  
38 by including income attributable to the disregarded business entity  
39 that generated the credit or credit carryover, over the taxpayer’s  
40 regular tax (as defined in Section 23455), determined by excluding

1 the income attributable to that disregarded business entity. A credit  
2 is not allowed if the taxpayer's regular tax (as defined in Section  
3 23455), determined by including the income attributable to the  
4 disregarded business entity is less than the taxpayer's regular tax  
5 (as defined in Section 23455), determined by excluding the income  
6 attributable to the disregarded business entity.

7 (3) If the amount of a credit allowed pursuant to the section  
8 establishing the credit exceeds the amount allowable under this  
9 subdivision in any taxable year, the excess amount may be carried  
10 over to subsequent taxable years pursuant to subdivisions (d), (e),  
11 and (f).

12 (j) (1) Unless otherwise specifically provided, in the case of a  
13 taxpayer that is a partner or shareholder of an eligible pass-thru  
14 entity described in paragraph (2), any credit passed through to the  
15 taxpayer in the taxpayer's first taxable year beginning on or after  
16 the date the credit is no longer operative may be claimed by the  
17 taxpayer in that taxable year, notwithstanding the repeal of the  
18 statute authorizing the credit prior to the close of that taxable year.

19 (2) For purposes of this subdivision, "eligible pass-thru entity"  
20 means any partnership or ~~S~~ "S" corporation that files its return on  
21 a fiscal year basis pursuant to Section 18566, and that is entitled  
22 to a credit pursuant to this part for the taxable year that begins  
23 during the last year a credit is operative.

24 (3) This subdivision applies to credits that become inoperative  
25 on or after the operative date of the act adding this subdivision.

26 ~~SEC. 4.~~

27 ~~SEC. 5.~~ Section ~~23686~~ 23686.1 is added to the Revenue and  
28 Taxation Code, to read:

29 ~~23686.~~

30 23686.1. For each taxable year beginning on or after January  
31 1, 2015, and before January 1, 2023, there shall be allowed as a  
32 credit against the "tax," as defined in Section 23036, an amount  
33 determined in accordance with Section 47 of the Internal Revenue  
34 Code, except as follows:

35 (a) (1) In lieu of the percentages specified in Section 47(a) of  
36 the Internal Revenue Code, except as provided in paragraph (2),  
37 the applicable percentage shall be 20 percent of the qualified  
38 rehabilitation expenditures with respect to a certified historic  
39 structure.

(2) The applicable percentage shall be 25 percent of the qualified rehabilitation expenditures with respect to a certified historic structure if that historic structure meets one of the following criteria:

(A) The rehabilitated structure is located on federal surplus property, if obtained by a local agency under Section 54142 of the Government Code, on surplus state real property, as defined by Section 11011.1 of the Government Code, or on surplus land, as defined by subdivision (b) of Section 54221 of the Government Code.

(B) The rehabilitated structure includes affordable housing for lower-income households, as defined by Section 50079.5 of the Health and Safety Code.

(C) The structure is located in a designated census tract, as defined in paragraph (7) of subdivision (b) of Section 17053.73.

(D) The structure is a part of a military base reuse authority established pursuant to Title 7.86 (commencing with Section 67800) of the Government Code.

(E) The structure is a transit-oriented development that is a higher-density, mixed-use development within a walking distance of one-half mile of a transit station.

(b) For purposes of this section, ~~a certified historic structure~~ *the following shall apply:*

(1) *“Certified historic structure” has the same meaning as defined in Section 47(c)(3) of the Internal Revenue Code and additionally means a structure in this state that appears on either the National Register of Historic Places or is listed on the California Register of Historical Resources.*

(2) *“Qualified rehabilitation expenditure” has the same meaning as that term is defined in Section 47(c) of the Internal Revenue Code, except that qualified rehabilitation expenditures may include expenditures in connection with the rehabilitation of a building without regard to whether any portion of the building is or is reasonably expected to be tax exempt use property.*

(c) A deduction shall not be allowed under this part for any cost for which a credit is allowed by this section.

(d) If a credit is allowed under this section with respect to any property, the basis of that property shall be reduced by the amount of the credit allowed.

1 (e) In the case where the credit allowed by this section exceeds  
2 the “tax,” the excess may be carried over to reduce the “tax” in  
3 the following year, and the seven succeeding years if necessary,  
4 until the credit is exhausted.

5 (f) For purposes of this section, the Governor’s Office of  
6 Business and Economic Development shall do the following:

7 (1) ~~(A)~~ On and after January 1, 2015, and before January 1,  
8 2023, allocate tax credits to applicants.

9 ~~(B) (i) The credit shall be allocated to the partners of a~~  
10 ~~partnership owning the project in accordance with the partnership~~  
11 ~~agreement, regardless of how the federal historic rehabilitation tax~~  
12 ~~credit with respect to the project is allocated to the partners, or~~  
13 ~~whether the allocation of the credit under the terms of the~~  
14 ~~agreement has substantial economic effect, within the meaning of~~  
15 ~~Section 704(b) of the Internal Revenue Code.~~

16 ~~(ii) To the extent the allocation of the credit to a partner under~~  
17 ~~this section lacks substantial economic effect, any loss or deduction~~  
18 ~~otherwise allowable under this part that is attributable to the sale~~  
19 ~~or other disposition of that partner’s partnership interest made prior~~  
20 ~~to the expiration of the federal credit shall not be allowed in the~~  
21 ~~taxable year in which the sale or other disposition occurs, but shall~~  
22 ~~instead be deferred until, and treated as if, it occurred in the first~~  
23 ~~taxable year immediately following the taxable year in which the~~  
24 ~~federal credit period expires for the project described in clause (i).~~

25 (2) Establish a procedure for applicants to file with the  
26 Governor’s Office of Business and Economic Development a  
27 written application, on a form jointly prescribed by that office and  
28 the Office of Historic Preservation for the allocation of the tax  
29 credit.

30 (3) Establish criteria consistent with the requirements of this  
31 section, for allocating tax credits. Criteria shall include, but are  
32 not limited to, the following:

33 (A) The number of jobs created by the rehabilitation project,  
34 both during and after the rehabilitation of the structure.

35 (B) The expected increase in state and local tax revenues derived  
36 from the rehabilitation project, including those from increased  
37 wages and property taxes.

38 (C) Any additional incentives or contributions included in the  
39 rehabilitation project from federal, state, or local governments.

(4) Determine and designate, in consultation with the Office of Historic Preservation, applicants that meet the requirements of this section to ensure that the rehabilitation project upholds historical values in terms of architectural and aesthetic standards.

(5) Process and approve, or reject, all applications.

(6) Subject to the annual cap established as provided in subdivision (g), allocate an aggregate amount of credits under this section and Section 17053.86, and allocate any carryover of unallocated credits from prior years.

(7) Certify tax credits allocated to taxpayers.

(8) Provide the Franchise Tax Board an annual list of the taxpayers that were allocated a credit pursuant to this section and Section 17053.86, including each taxpayer's taxpayer identification number, and the amount allocated to each taxpayer.

(g) The aggregate amount of credits that may be allocated in any calendar year pursuant to this section and Section ~~17053.86~~ 17053.91 shall be an amount equal to the sum of all of the following:

(1) Eighty million dollars (\$80,000,000) in tax credits for the 2015 calendar year and each calendar year thereafter, through and including the 2022 calendar year.

(2) The unused allocation tax credit amount, if any, for the preceding calendar year.

*(h) In the case of any application for tax credits by an entity treated as a partnership or "S" corporation for income tax purposes:*

*(1) (A) Credits awarded to a partnership shall be allocated to the partners of that partnership in accordance with the partnership agreement, regardless of how the federal historic rehabilitation tax credit with respect to the project is allocated to the partners, or whether the allocation of the credit under the terms of the partnership agreement has substantial economic effect, within the meaning of Section 704(b) of the Internal Revenue Code.*

*(B) To the extent the allocation of the credit to a partner under this section lacks substantial economic effect, any loss or deduction otherwise allowable under this part that is attributable to the sale or other disposition of that partner's partnership interest made prior to the expiration of the tax credit recapture period for the project described in subparagraph (A) shall not be allowed in the taxable year in which the sale or other disposition occurs, but*

1 *shall instead be deferred until, and treated as if, it occurred in the*  
2 *first taxable year immediately following the taxable year in which*  
3 *the tax credit recapture period expires for the project described*  
4 *in subparagraph (A). The credits awarded to a partnership shall*  
5 *be allocated to the partners of that partnership in accordance with*  
6 *the partnership agreement.*

7 *(2) Credits awarded to an “S” corporation shall be allocated*  
8 *among the shareholders of that “S” corporation pro rata in*  
9 *accordance with their respective pro rata shares, determined in*  
10 *accordance with Subchapter S of Chapter 1 of the Internal Revenue*  
11 *Code and the regulations promulgated thereunder.*

12 *(i) Section 183 of the Internal Revenue Code shall not apply*  
13 *with respect to the credit allowed by this section.*

14 *(j) For purposes of this section, the provisions of subsection (a)*  
15 *of Section 50 of the Internal Revenue Code shall apply.*

16 *(k) The Governor’s Office of Business and Economic*  
17 *Development may adopt a reasonable fee in an amount sufficient*  
18 *to cover the expenses incurred by the Governor’s Office of Business*  
19 *and Economic Development and the Office of Historic Preservation*  
20 *in fulfilling the responsibilities described in paragraphs (4) and*  
21 *(5) of subdivision (f) and paragraphs (4) and (5) of subdivision (f)*  
22 *of Section 17053.91.*

23 ~~*(h)*~~

24 *(l) This section shall remain in effect only until December 1,*  
25 *2023, and as of that date is repealed.*

26 ~~SEC. 5.~~

27 *SEC. 6. This act provides for a tax levy within the meaning of*  
28 *Article IV of the Constitution and shall go into immediate effect.*